

Update to Board of County Commissioners

From: Public & Government Affairs
RE: HB 4147, Voting by Adults in Custody
Date: 02-08-2022

Bill: HB 4147, Voting by Adults in Custody

Summary	<p>HB 4147 would allow persons convicted of a felony to vote, update voter registration and vote in elections while incarcerated.</p> <p>This bill is sponsored by many legislators, including many Clackamas delegation members. It is a priority bill for Reimagine Oregon, who has requested the regional counties support this legislation.</p> <p>Note: Oregon’s current laws restore voting rights for individuals once released from incarceration. This bill is specific to felony crimes.</p>
Department Position	<p>Sheriff – Policies and procedures are in place in county jail to support the work if this bill passes.</p> <p>Clerk – Notes this change in law would be easy to administer. Notes that consideration should be given to permitting access to media/internet to ensure that incarcerated individuals have necessary information to intelligently vote.</p> <p>Juvenile – The “relating to” clause specifically identifies this bill would apply to adults, yet section 2 includes information about youth correctional facilities. At the time of writing this memo, PGA is working with Juvenile to ensure the current language includes justice involved youth between ages 18 and 23 are not excluded from this legislation.</p>
Staff Recommendation	<p>PGA recommends “support,” with a potential recommendation for an amendment pending research about justice involved youth between ages 18 and 23.</p>
Timeline	<p>The bill is currently referred to the House Rules Committee, and is thus immune from general committee deadlines.</p>

House Bill 4147

Sponsored by Representatives REYNOLDS, BYNUM, Senators DEMBROW, LAWRENCE SPENCE, PROZANSKI; Representatives ALONSO LEON, CAMPOS, GRAYBER, HELM, HUDSON, NOSSE, PHAM, SANCHEZ, SCHOUTEN, VALDERRAMA, WILDE, WILLIAMS, Senators LIEBER, STEINER HAYWARD (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows persons convicted of felony to register to vote, update voter registration and vote in elections while incarcerated. Specifies that person's residence is where person resided prior to incarceration.

A BILL FOR AN ACT

1
2 Relating to voting by adults in custody; creating new provisions; and amending ORS 137.281, 247.013
3 and 247.035.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 137.281 is amended to read:

6 137.281. (1) In any felony case, when the defendant is sentenced to a term of incarceration, the
7 defendant is deprived of all rights and privileges described in subsection (3) of this section from the
8 date of sentencing until:

9 (a) The defendant is released from incarceration; or

10 (b) The defendant's conviction is set aside.

11 (2) Subsection (1) of this section applies to any term of incarceration, whether the term of
12 incarceration was imposed as a result of conviction or as a sanction or revocation resulting from
13 the defendant's violation of the terms and conditions of probation, parole or post-prison supervision.

14 (3) The rights and privileges of which a person may be deprived under this section are:

15 (a) Holding a public office or an office of a political party or becoming or remaining a candidate
16 for either office;

17 (b) Holding a position of private trust; **or**

18 (c) Acting as a juror.[: or]

19 *[(d) Exercising the right to vote.]*

20 (4) If the court under subsection (1) of this section temporarily stays execution of sentence for
21 any purpose other than probation, the defendant nonetheless is sentenced for purposes of subsection
22 (1) of this section.

23 *[(5) A person convicted of any crime and serving a term of imprisonment in any federal correctional
24 institution in this state is deprived of the rights to register to vote, update a registration or vote in any
25 election in this state from the date of sentencing until:]*

26 *[(a) The person is discharged or paroled from imprisonment; or]*

27 *[(b) The person's conviction is set aside.]*

28 *[(6) The county clerk or county official in charge of elections in any county may cancel the regis-
29 tration of any person serving a term of imprisonment in any federal correctional institution in this
30 state.]*

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 [(7)] (5) Except as otherwise provided in ORS 10.030, the rights and privileges withdrawn by this
 2 section are restored automatically upon release from incarceration, but in the case of parole shall
 3 be automatically withdrawn upon a subsequent imprisonment for violation of the terms of the parole.

4 **SECTION 2.** ORS 247.013 is amended to read:

5 247.013. (1)(a) A qualified person shall be considered registered to vote in a county when the
 6 person's first registration in the county occurs as described in ORS 247.012.

7 **(b) A qualified person who is registered to vote and is in the physical custody of a jail,**
 8 **prison or correctional facility, including a local correctional facility as defined in ORS 169.005**
 9 **or a youth correction facility as defined in ORS 420.005, shall be considered registered to vote**
 10 **in the county of the qualified elector's last voluntary residence.**

11 (2) An elector who changes residence address from the county in which the elector is registered
 12 to a different county within the state, in order to vote in an election, must be an elector registered
 13 in the county in which the new residence address of the elector is located.

14 (3) If there is a change in any information required for registration under this chapter, and the
 15 elector has not changed residence address to another county, the registration of the elector may be
 16 updated as provided in this chapter.

17 (4) Notwithstanding subsections (2) and (3) of this section, if an elector changes residence ad-
 18 dress from the county in which the elector is registered to a different county within the state, the
 19 elector need not register again if the registration of the elector is updated.

20 (5) If the county clerk does not have evidence of a change in any information required for reg-
 21 istration under this chapter for an elector, the registration of the elector shall be considered active.

22 (6) The registration of an elector shall be considered inactive if:

23 (a) The county clerk has received evidence that there has been a change in the information re-
 24 quired for registration under this chapter; and

25 (b) The county clerk has mailed the notice described in ORS 247.563.

26 (7) The inactive registration of an elector must be updated before the elector may vote in an
 27 election.

28 **SECTION 3.** ORS 247.035 is amended to read:

29 247.035. (1) An elections official, in determining the residence and qualifications of a person of-
 30 fering to register or vote, shall consider the following rules, so far as they may be applicable:

31 (a) The person's residence shall be the place in which habitation is fixed and to which, when the
 32 person is absent, the person intends to return.

33 (b) If a person's property is split by a jurisdictional line, the person shall be registered where
 34 the residence is located. If the residence is split by a jurisdictional line, the person shall register
 35 where the greatest value of the residence is located according to county assessment and taxation
 36 records.

37 (c) A person shall not be considered to have gained a residence in any location in this state into
 38 which the person comes for temporary purposes only, without the intention of making it the person's
 39 home.

40 (d) If a person moves to another state with the intention of making a permanent home, the
 41 person shall be considered to have lost residence in this state.

42 (e) If a person goes from this state into any other state or territory and votes there, the person
 43 shall be considered to have lost residence in this state.

44 (f) A person who has left the place of the person's residence for a temporary purpose only
 45 [shall] **may** not be considered to have lost residence.

(2) Notwithstanding subsection (1) of this section[,]:

(a) A person who has left the place of the person’s residence for a temporary purpose only, who has not established another residence for voter registration purposes and who does not have a place in which habitation is fixed [shall] **may** not be considered to have changed or lost residence. The person may register at the address of the place the person’s residence was located before the person left.

(b) A person who has left the place of the person’s residence as part of the person’s confinement in a jail, prison or correctional facility, including a local correctional facility as defined in ORS 169.005 or a youth correction facility as defined in ORS 420.005, who has not established another residence for voter registration purposes, and who does not have a place in which habitation is fixed, may not be considered to have changed or lost residence. The person may register at the address of the place the person’s residence was located before the person left, including a residence address described in ORS 247.038.

(3) An elections official may consider, but is not limited to considering, the following factors in determining residency of a person for voter registration purposes:

- (a) Where the person receives personal mail;
- (b) Where the person is licensed to drive;
- (c) Where the person registers motor vehicles for personal use;
- (d) Where any immediate family members of the person reside;
- (e) The address from which the person pays for utility services; and
- (f) The address from which the person files any federal or state income tax returns.

SECTION 4. Section 5 of this 2022 Act is added to and made a part of ORS chapter 247.

SECTION 5. (1) The Secretary of State, in consultation with the Department of Corrections and cities and counties that operate local correctional facilities as defined in ORS 169.005, shall by rule establish procedures that allow:

(a) **All qualified individuals who are in the physical custody of a jail, prison or correctional facility, including a local correctional facility as defined in ORS 169.005 or a youth correction facility as defined in ORS 420.005, to register to vote or update their voter registration;**

(b) **All registered electors who are in the physical custody of a jail, prison or correctional facility, including a local correctional facility as defined in ORS 169.005 or a youth correction facility as defined in ORS 420.005, to receive all election materials, including ballots and voters’ pamphlets; and**

(c) **All registered electors who are in the physical custody of a jail, prison or correctional facility, including a local correctional facility as defined in ORS 169.005 or a youth correction facility as defined in ORS 420.005, to cast a ballot in each election.**

(2) **The Secretary of State shall by rule establish a process for identifying, for an individual confined in a jail, prison or correctional facility, including a local correctional facility as defined in ORS 169.005 or youth correctional facility as defined in ORS 420.005, the last voluntary residence of the individual prior to the confinement, including a residence address described in ORS 247.038, for the purposes of the individual registering to vote or updating the individual’s voter registration.**

(3) **Notwithstanding ORS 254.115, 254.125 or 254.135 or any other provision of law, in implementing this section the Secretary of State may by rule authorize the preparation of ballots of any different weight of paper, overall size and shape or other physical criteria as**

1 is necessary to conform with postal, military, correctional or other state and federal statutes
2 regarding the transportation and delivery of ballots to a jail, prison or correctional facility,
3 including a local correctional facility as defined in ORS 169.005 or a youth correction facility
4 as defined in ORS 420.005.

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